

REMARKS

Claims 1-8 were rejected under 35 U.S.C. § 101 as claiming the same inventions as that of claims 1-8 of prior U.S. Patent No. 6,460,945. Applicants respectfully traverse this rejection because these sets of claims are not identical. The test for same type double patenting is whether an imagined product can infringe one claim without infringing the other claim. In the present case, a hypothetical product can infringe one claim without infringing the other, thus a same type double-patenting rejection is improper. For example, a claim reciting an endless track comprising a continuous pad including a single urethane rubber belt is not infringed literally by an endless track comprising a continuous pad including a single non-urethane rubber belt being vulcanized, whereas that same product would infringe literally a claim merely reciting a rubber belt. Therefore, a rejection under 35 U.S.C. § 101 is improper. However, to expedite allowance, Applicants submit herewith a terminal disclaimer to overcome a possible obviousness-type double-patenting rejection.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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